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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,820	11/21/2003	Alexander Miller	4452-587	1340

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

WILLIAMS, THOMAS J

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,820

Applicant(s)

MILLER ET AL.

Examiner

Thomas J. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-9,11 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Acknowledgement is made in the receipt of the amendment December 5, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 8510058.

Re-claim 1, DE '058 discloses in figure 5 a spring strut, comprising: a cylinder 2; a support ring 5 permanently connected to the cylinder (see welds) and forming a chamber 6 around the cylinder, the chamber is partially filled with an initially formable material (interpreted as screw element 12, page 9 lines 13-14 of the instant specification discloses that hardenable metallic materials can constitute the initially formable material); a spring plate 3 has a sleeve section 4 fitted around the cylinder and against the initially formable material, such that the initially formable material in a solidified state will transmit a supporting force along a path of force transmission from the cylinder to the spring plate, the sleeve section 4 has an inside wall facing the cylinder; and means for preventing rotation (interpreted as element 12) of the spring plate with respect to the cylinder in the path of force transmission, the mean comprising at least one circumferentially limited radial pocket (interpreted as recess hole 13) formed in the inside wall of the sleeve section 4, the pocket 13 receives the initially formable material, see figure 5.

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Re-claim 3, the support ring 5 comprises a bottom fixed to the cylinder (at weld points) and a sleeve (upwardly extending skirt or wall) extends from the bottom around the cylinder, at least part of the sleeve section 4 is received in the sleeve.

Re-claim 4, the support ring comprises a connecting opening for receiving the initially deformable material, see figure 5.

Re-claim 6, the support ring 5 comprises a circumferentially limited engagement profile (recess for receiving element 12) which receives the initially deformable material.

Re-claim 7, the engagement profile comprises at least one pocket (i.e. the recess).

Re-claim 8, the support ring 5 has an edge (i.e. top edge of the skirt), the at least one pocket extends to a point below the edge.

Re-claim 9, the sleeve section 4 has an inside wall, the anti-rotation profile being provided in the inside wall.

Re-claim 11, the anti-rotation profile comprises at least one opening 13 in the sleeve section 4 of the spring plate 3.

Re-claim 15, the support ring 5 comprises a circumferentially limited engagement profile (i.e. element 12), the engagement profile is received in the anti-rotation profile (i.e. recess 13).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 8510058.

Re-claim 16, DE '058 teaches in figure 5 spring strut, comprising: a cylinder 2; a support ring 5 permanently connected to the cylinder and forming a chamber 6 around the cylinder 2, the chamber is partially filled with an initially formable material 12; a spring plate 3 having a sleeve section 4 fitted around the cylinder and against the initially deformable material so that the initially deformable material in a solidified state will transmit a supporting force along a path of force transmission from the cylinder to the spring plate 3. DE '058 teaches a means for preventing rotation (such as element 12), as a well as other anti-rotation profiles (such as splined engagement illustrated in figure 2) comprising a profile 7 in the sleeve section and a radial projections 8 in the support ring 5. However DE '058 fails teach the anti-rotation feature of figure 2 used in combination with figure 5.

It would have been obvious to one of ordinary skill in the art to have combined the various teachings in DE '058 with regards to the anti-rotation feature when having constructed

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the spring strut, thus preventing rotation of the spring plate 3 relative to the cylinder 2 prior to insertion of the initially formable material, as represented by element 12.

Re-claim 17, element 12 is broadly interpreted as the radial projection.

Allowable Subject Matter

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed December 5, 2005 have been fully considered but they are not persuasive. As noted above the screw element 12 is interpreted as the initially deformable material. This is consistent with the instant specification which discloses that the initially formable material may constitute a hardenable metal. It is not believed that this is an unduly broad interpretation, since the phrase "initially formable material" can technically define any element that is produced from a formable material, such as molten plastics or molten metals.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Georg teaches a spring strut.

10. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

January 20, 2006

THOMAS J. WILLIAMS
PRIMARY EXAMINER

Thomas Williams
AU 3683
1-20-06